

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EARL INGELS,	:	NO. 1:00-CV-01003
	:	
Petitioner,	:	
	:	ORDER
v.	:	
	:	
	:	
HARRY K. RUSSELL,	:	
	:	
Respondent.	:	

This matter is before the Court on Petitioner's Motion to Reinstate Case on Active Docket and For Leave to File A Second Amended Petition for Writ of Habeas Corpus (doc. 14). Petitioner's Motion is unopposed.

On March 31, 2003, the Court adopted the Report and Recommendation of the Magistrate Judge staying this case conditionally upon Petitioner's pursuing of his state remedies within thirty days and his filing of a Motion to Reinstate this case within thirty days of exhausting his state remedies (doc. 7). Petitioner now files his Motion, including a request that the Court grant leave to file a second amended petition for a writ of habeas corpus (doc. 14). Petitioner avers that he has exhausted his state remedies on all of the grounds asserted in his petition, as both the First District Court of Appeals of Ohio and the Ohio Supreme Court refused to hear oral argument on such grounds (Id.).

Having reviewed this matter, the Court finds Petitioner's Motion well-taken, and in accordance with the Court's prior March 31, 2003 Order. Moreover, such Motion is unopposed, and is in conformity with the requirements of the AntiTerrorism and Effective Death Penalty Act, 28 U.S.C. § 2244 (2003), that Petitioner exhaust his state remedies. Kilburn v. Maloney, 164 F. Supp.2d 117, 119 (D. Mass. 2001) (a court properly retains jurisdiction over a habeas petition by staying such motion pending exhaustion of state remedies). Accordingly, the Court GRANTS Petitioner's Motion to Reinstate Case on Active Docket and For Leave to File a Second Amended Petition for Writ of Habeas Corpus (doc. 14).

SO ORDERED.

Date: March 9, 2004

/s/ S. Arthur Spiegel

S. Arthur Spiegel

United States Senior District Judge